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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF NEVADA**
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13 UNITED STATES OF AMERICA,
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15 Plaintiff,
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17 v.
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19 OTONIEL GARCIA,
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21 Defendant.
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Case No. 2:21-cr-315-GMN-NJK

STIPULATION TO CONTINUE
STATUS CHECK HEARING
(First Request)

23 IT IS HEREBY STIPULATED AND AGREED, by and between Jason Frierson, United
24 States Attorney, and Jacob Operskalski, Assistant United States Attorney, counsel for the
25 United States of America, and Michael Miceli and Andrew Wong, counsel for Otoniel Garcia,
26 that the status hearing set for July 3, 2024 at 10am, be vacated and set for July 15, 2024 at 10am.

The Stipulation is entered into for the following reasons:

1. Mr. Wong has spoken to Mr. Garcia and he wishes to maintain his guilty plea pursuant to the negotiated plea agreement. The parties anticipate requesting a sentencing date at the status check.

2. Mr. Wong has a scheduling conflict the morning of July 3. Mr. Miceli will be out of the jurisdiction from July 3 to July 13.

3. All parties are available July 15, 2024 at 10am and request that date and time for the status check.

4. The defendant is incarcerated and does not object to the continuance.

1 5. The parties agree to the continuance.

2 6. The additional time requested herein is not sought for purposes of delay, but
3 merely to allow counsel for defendant sufficient time within which to be able to effectively
4 prepare for sentencing.

5 This is the first stipulation to continue filed herein.

6 DATED: June 25 2024.

7 By /s/ Andrew Wong
8 Andrew Wong
 Counsel for Otoniel Garcia

JASON FRIERSON
United States Attorney

9 By /s/ Michael Miceli
10 Yi Lin Zheng
 Counsel for Otoniel Garcia

By /s/ Jacob Operskalski
Jacob Operskalski
Assistant United States Attorney

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Otoniel Garcia,

Defendant.

Case No. 2:21-cr-315-GMN-NJK

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Mr. Wong has spoken to Mr. Garcia and he wishes to maintain his guilty plea pursuant to the negotiated plea agreement. The parties anticipate requesting a sentencing date at the status check.

2. Mr. Wong has a scheduling conflict the morning of July 3. Mr. Miceli will be out of the jurisdiction from July 3 to July 13.

3. All parties are available July 15, 2024 at 10am and request that date and time for the status check.

4. The defendant is incarcerated and does not object to the continuance.

5. The additional time requested herein is not sought for purposes of delay, but merely to allow counsel for defendant sufficient time within which to be able to effectively and complete investigation of the discovery materials provided.

6. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excludable in computing the time

1 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
2 States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code,
3 Section 3161(h)(7)(B)(i), (iv).

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5 **CONCLUSIONS OF LAW**

6 The ends of justice served by granting said continuance outweigh the best interest of the
7 public and the defendant in a speedy sentencing, since the failure to grant said continuance
8 would be likely to result in a miscarriage of justice, would deny the parties herein sufficient
9 time and the opportunity within which to be able to effectively and thoroughly prepare for
10 sentencing, taking into account the exercise of due diligence.

11 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
12 United States Code, Section § 3161 (h)(7)(A), when the considering the factors under Title 18,
13 United States Code, § 3161(h)(7)(B)(i), (iv).

14 **ORDER**

15 IT IS ORDERED that the sentencing scheduled for July 3, 2024 at 10am is vacated and
16 continued to July 15, 2024 at 10am.

17 DATED: June 25, 2024.

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20 UNITED STATES DISTRICT JUDGE
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